

MONTANA BOARD OF PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL  
OR OUTDOOR PROGRAM

New Board Member Training Full Board Meeting

Department of Labor & Industry

301 S. Park Avenue, Helena, MT

4<sup>th</sup> Floor Conference Room

October 6, 2008

9:00am-12:00pm & 1:00PM – 5:00

Minutes

From 9:00am – 12:00pm Board Members participated in New Board Member Training according to the attached agenda. Presenters included Department Legal and Administrative Staff. New Board Members included: Johns Santa, Penny James, and Darcee Kelly. Mary Alexine, Board Member representing medium sized schools, also attended the training.

CALL TO ORDER:

At 1:39pm Board Counsel, Mike McCabe called the meeting to order in the absence of a current Board Chair.

Members Present:

Mary Alexine

Johns Santa

Penny James

Darcee Kelly

Absent

Carol Brooker

Staff Present:

Mike McCabe, Board Counsel

Cyndi Breen, Program Manager

Marilyn Kelly Clark, Unit Supervisor

Paul Mickelson, IT Staff

Others Present:

Carl Baisden

Jacob Francom

By Phone

Marilys Filipovich

Avalon McElhaney

Lucy Olson

Mickey Manning

AGENDA ITEM #1

#### REVIEW OF AGENDA:

Staff corrections:

- the month entered on the agenda for minutes from June to July.
- due to availability of phone lines, the start time tomorrow's meeting is 10:15am.
- additions have been made to agenda # 5, Montana State Regulations and Proposed Federal Regulation Comparison of Montana Regulations and Proposed Federal Regulation, Congressman Miller.
  - Review of Montana Rules thus far, Core Rules, Minutes 7/23/2008
  - Paul Clark/ Roy Kemp: draft on behavioral management
  - Mike McCabe: definitions of restraints

Motion: Ms. Alexine moved to approve the agenda as amended.

Second: Mr. Santa.

Discussion: None.

Vote: Unanimous.

Motion carried.

#### AGENDA ITEM #2

##### APPROVAL OF MINUTES:

July 23, 2008 Full Board Meeting.

Motion: Ms. Alexine moved to approve the minutes as written.

Second: Mr. Santa.

Discussion: None.

Vote: Unanimous.

Motion carried.

#### AGENDA ITEM #3

Nomination of a Board Chair by the Board

Motion: Ms. James moved to nominate Mr. Santa for the Board Chair position.

Second: Ms. Alexine.

Discussion: None.

Vote: Unanimous.

Motion carried.

Mr. Santa assumed conduct of the meeting.

Nomination of a Board Co-Chair by the Board

Motion: Ms. James moved to nominate Ms. Alexine for the Co-Chair position.

Second: Ms. Kelly.

Discussion: None.

Vote: Unanimous.

Motion carried.

Nomination of a Fiscal Contact:

Motion: Ms. James moved to nominate Ms. Booker for Fiscal Contact position.

Second: Ms. Alexine.

Discussion: None.

Vote: Unanimous.

Motion carried.

Nomination of a Legislative Contact:

Motion: Ms. Alexine moved to nominate Ms. Kelly as the Legislative Contact position.

Second: Ms. James.

Discussion: None.

Vote: Unanimous.

Motion carried.

Nomination of:

Screening Panel Members:

Adjudication Panel Members

Mr. McCabe recommended that the Board delay making these nominations until rules have been adopted regarding the complaint process.

Motion: Ms. James moved to delay the above nominations to a later Board meeting.

Second: Ms. Alexine

Discussion: None.

Vote: Unanimous.

Motion carried.

#### PUBLIC COMMENT STATEMENT:

In accordance with 2-3-103(1), MCA, the Board will hold a public comment period. Please note that Open Forum is the public's opportunity to address the Board on any topic that is not already on the agenda for this meeting. While the Board cannot take action on the issues presented, the Board will listen to comments and may ask the issue be placed on a subsequent agenda for possible action by the Board. The Chairperson of the Board will determine the amount of time allotted for public comment.

Carl Baisden, Turning Winds Academic Institute, extended his invitation to help with whatever tasks the Board deems necessary.

#### AGENDA ITEM #4

Fiscal Year 2008 and Current Budget Report.

Marilyn Kelly-Clark.

Fiscal year 2008:

Cash balance of \$240.33.

Liabilities:

Loan of \$11,750.

Vouchers payable \$1,979.40.

Payroll \$1,299.32.

Total expenditures for 2008: \$47,330.80.

Addition assets:

Cash cutoff: \$4,337.00.

Revenue received as of June 30, 2008: \$23,626.61.

62882: Legal, Cost allocation, direct billing

Ms. James asked Ms. Kelly-Clark to provide a break down of the fees in this category, particularly the legal costs.

62889: Agency indirect: 7% of personal services charged to the budget of all state agencies paid to the Department of Administration for accounting services and payroll.

FY 2009, current, after 2 months:

Cash balance: \$28,864.33

Revenue: \$51,720

Expenditures: \$4,015.69

Legal cost: \$647.79

Motion: Ms. James moved to accept the fiscal year-end report for 2008 and the current budget report to date for FY '09.

Second: Ms. Alexine

Discussion: None.

Vote: Unanimous.

Motion carried.

From 2:00pm – 3:00pm Board Members participated in a Flash drive Training hosted by Paul Mickelson, IT staff.

The Full Board re-convened at 3:05pm.

#### AGENDA ITEM #5

Comparison of Montana Regulations and Proposed Federal Regulation, Congressman Miller.

- Review of Montana Rules thus far, Core Rules, Minutes 7/23/2008.
- Paul Clark/ Roy Kemp: draft on behavioral management
- Mike McCabe: definitions of restraints

Board members will review the following sections of the federal bill in order to draft language to incorporate into the Montana rules.

Board members reviewed A-N of the federal bill and will consider language in the following areas to be reviewed during tomorrow's meeting:

- Students shall have 24 hour, unrestricted access to the state child abuse hotline under rights and responsibilities
- 37 48 102 definition of direct access
- Programs will make available upon request a list of all staff qualifications and their roles
- Need language for a policy that deals with contracted services that addresses confidentiality and access to youth
- Add language for wilderness programs that includes familiarity with hyperthermia and dehydration
- Programs will have written policy and procedures for the provision of routine and emergency medical care services and mental health services

- Parents are obligated to notify the program in writing, within 24 hours of all medical and non-prescription and prescription drug issues, past and present
- Programs are obligated to notify the parents in writing, within 24 hours of all medical and non-prescription and prescription drug issues, past and present
- History of suicide of students who are transfer from one program to another must be required

Mike McCabe: definitions of restraints page 12, rule #6 of the core standards.

Mr. McCabe provided several definitions for physical restraint.

(4) (a) A person who is employed or engaged by a program may use physical restraint, defined as the placing of hands on a youth in a manner that is reasonable and necessary to:

- (i) quell a disturbance;
- (ii) provide self-protection;
- (iii) protect the youth or participant youth or others from physical injury;
- (iv) obtain possession of a weapon or other dangerous object on the person of the youth or within control of the youth;
- (v) maintain the orderly conduct of a youth including but not limited to relocating a youth, or other on-campus facility; or
- (vi) protect property from serious harm.

(b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not constitute corporal punishment as long as the restraint is reasonable and necessary.

The Board approved the above language though a motion was not made.

#### AGENDA ITEM #6

M. Manning DPHHS Disqualifier Draft, M. Manning, as related to Criminal Background Checks.

Board Members will review this document and address it during the meeting tomorrow, October 7, 2008.

#### AGENDA ITEM #7

Application Reviews.

Issuance of Provisional Licenses

Tabled for the meeting tomorrow, October 7, 2008.

#### AGENDA ITEM #8

Site Visits/Inspections criteria.

Tabled for the meeting tomorrow, October 7, 2008.

#### AGENDA ITEM #9

Governor's Mandate on Meetings.

Tabled for the meeting tomorrow, October 7, 2008.

#### AGENDA ITEM #10

Tabled for the meeting tomorrow, October 7, 2008.

ADJOURNMENT:

Motion: Ms. James moved to adjourn the meeting at 4:55pm.

Second: Ms. Alexine

Discussion: None.

Vote: Unanimous.

Motion carried.

MONTANA BOARD OF PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL  
OR OUTDOOR PROGRAM

Full Board Meeting  
Department of Labor & Industry  
301 S. Park Avenue, Helena, MT  
4<sup>th</sup> Floor Conference Room  
October 7, 2008  
10:15AM – 4:10PM  
Approved Minutes

CALL TO ORDER:

Chairman John Santa convened the meeting of the Board at 10:22am beginning with agenda item #5.

Members Present:

Mary Alexine  
John Santa  
Penny James  
Darcee Kelly

Absent

Carol Brooker

Staff Present:

Mike McCabe, Board Counsel  
Cyndi Breen, Program Manager

Others Present:

Carl Baisden  
Jacob Francom  
Roy Kemp  
John McKay

By Phone

Marilys Filipovich  
Avalon McElhaney  
Lucy Olson  
Mickey Manning

AGENDA ITEM #5

- Review of Montana Rules thus far, Core Rules, Minutes 7/23/2008
- Paul Clark/ Roy Kemp: draft on behavioral management
- Mike McCabe: definitions of restraints

This agenda item and Board actions are included in the document named Core Rules Compiled, John Santa/Full Board 10 7 08, and is attached to these minutes.

This agenda item will be included on the next meeting agenda for additional attention.

#### AGENDA ITEM #6

M. Manning DPHHS Disqualifier Draft, M. Manning, as related to Criminal Background Checks.

This agenda item and Board actions are included in the document named Core Rules Compiled, John Santa/Full Board 10 7 08, and is attached to these minutes.

This agenda item will be included on the next meeting agenda for additional attention.

#### AGENDA ITEM #7

Application Reviews.

Issuance of Provisional Licenses

Full application reviews are tabled until the next Full Board Meeting.

Motion: Ms. Alexine moved that legal staff will draft a letter to all programs requesting that they identify if there is any part of their application that they wish to be considered confidential and reviewed in executive, rather than open session, asserting their right to privacy.

Second: Ms. Kelly

Discussion: None.

Vote: Unanimous.

Motion carried

Motion: Ms. James moved that staff will divide the list of applications among four Board Members, insuring that no Board Member reviews their own Program. Each Board Member will review the file and at the next full Board Meeting each member will present necessary information from the file to qualify for a provisional license.

Second: Ms. Kelly

Discussion: None.

Vote: Unanimous.

Motion carried.

#### AGENDA ITEM #8

Site Visits/Inspections criteria.

This agenda item and Board actions are included in the document named Core Rules Compiled, John Santa/Full Board 10 7 08 attached to these minutes.

#### AGENDA ITEM #9

Governor's Mandate on Meetings.

FYI The Governors Office has mandated that State of Montana offices attempt to conserve dollars by hosting more meetings by phone.

#### AGENDA ITEM #10

Next meeting.

Motion: Ms. James moved to schedule the next meeting for October 22, 2008, by conference call, November 20, 2008, and December 11, 2008. All meetings will be from 9:00am-completion.

Second: Ms. Alexine



Discussion: None.  
Vote: Unanimous.  
Motion carried.

ADJOURNMENT:

Motion: Ms. James moved to adjourn the meeting at 4:10pm.  
Second: Ms. Alexine  
Discussion: None.  
Vote: Unanimous.  
Motion carried.

The PAARP Board: *The purpose of the board is to license and regulate private alternative adolescent residential and outdoor programs as a public service to monitor and maintain a high standard of care and to promote the safety and well-being of the adolescents and parents or guardians using the programs. Necessary licensure processes and safety standards for programs are best developed and monitored by professionals that are actively engaged in providing private alternative adolescent residential care.*

## Subchapter ?: General Provisions

### Fee Schedule:

#### Subchapter ?: Licensing, Renewals

- (1) Each entity or person who receives a license or endorsement from the department in accordance with these rules shall submit an application for renewal.
- (2) The application for renewal must follow procedures and be on a form provided by the department.
- (3) All fire protection equipment licenses and endorsements must be renewed on or before the date set by ARM [24.101.413](#). A renewal notice will be sent as specified in ARM [24.101.414](#).
- (4) Upon receipt of the application, the department shall grant a renewal of the license or endorsement if the applicant meets all of the requirements under the provisions of Title 37, chapter 48, part 1, MCA, and these rules; has committed no act which would constitute grounds for suspension or revocation under Section 37-1-308, MCA, and remains properly equipped and staffed to conduct the program as intended to be performed.
- (5) Applications for renewal must be accompanied by the fee(s) specified under ARM [24.144.411](#).
- (5) Applications for renewal must be accompanied by the fee(s) specified under ARM [24.144.411](#).
- (6) The provisions of ARM [24.101.408](#) apply.

[24.181.401](#) REGISTRATION FEE SCHEDULE (1) All programs must register prior to being licensed.

(2) The registration fee covers the year or portion of the year [July 1 of one year and June 30<sup>th</sup> of the next year], in which the program is registered.

(3) Registration fees are calculated according to the program's average daily census:

- (a) 0-10 participants \$500
- (b) 11-50 participants \$3,000
- (c) 51-100 participants \$6,000
- (d) 101 and more participants \$9,000

(3) All existing programs must be registered within 30 days of the adoption of these rules.

(4) Additional standardized fees are specified in ARM [24.101.403](#).

(5) All fees provided for in this rule are nonrefundable and are not prorated for portions of the registration period.

24.181.2101 LICENSING FEE SCHEDULE (1) Programs will be licensed annually. Beginning July 1, 2009, the annual period will run from July 1 to June 30 of the following year.

(2) Licensing fees are calculated according to the program's average daily census:

(a) 0-10 participants	\$ 260
(b) 11-50 participants	800
(c) 51-100 participants	1600
(d) 101 and more participants	2400

(4) All fees provided for in this rule are nonrefundable and are not prorated for portions of the licensing period.

#### Registration Process:

Application of policy: – In each section of these rules that require a program to develop policies, such policies shall be written and provided to the Board.

#### Subchapter ?: Licensing

### 24.\_\_\_\_. APPLICATION PROCEDURE

(1) An application for program registration, a license, or renewal, must be made on a form provided by the department and completed and signed by the applicant.

(2) The application must be typed or written in ink, signed and accompanied by the appropriate fee(s) and contain sufficient evidence of the individual's, entity's or program's qualifications under relevant law.

(3) The department may require an applicant to submit original or certified documents in support of any application. The department may permit such documents to be withdrawn upon substitution of a true and correct copy of same.

(4) Fully-completed applications will be reviewed for compliance with relevant law. The department may request such additional information or clarification of information provided in the application as it deems reasonably necessary to a complete review of the application.

(5) Incomplete applications shall be returned to the applicant with a statement regarding incomplete portions. The applicant shall correct any deficiencies and resubmit the application. Failure to resubmit the application within 60 days shall be treated as a voluntary withdrawal of the application. After voluntary withdrawal an applicant will be required to submit an entirely new application, with a new application fee, to begin the process again.

(6) The department shall notify the applicant in writing of the results of the evaluation of the application. In the case of a denial, the department shall specify the deficiencies in the application.

### 24. \_\_\_\_ RENEWALS

- (1) Each entity or person who receives a license or endorsement from the department in accordance with these rules shall submit an application for renewal.
- (2) The application for renewal must follow procedures and be on a form provided by the department.
- (3) All fire protection equipment licenses and endorsements must be renewed on or before the date set by ARM [24.101.413](#). A renewal notice will be sent as specified in ARM [24.101.414](#).
- 4) Upon receipt of the application, the department shall grant a renewal of the license or endorsement if the applicant meets all of the requirements under the provisions of Title 37, chapter 48, part 1, MCA, and these rules, has committed no act which would constitute grounds for suspension or revocation under Section 37-1-308, MCA, and remains properly equipped and staffed to conduct the provide the program as intended to be performed.
- (5) Applications for renewal must be accompanied by the fee(s) specified under ARM [24.144.411](#).
- (5) Applications for renewal must be accompanied by the fee(s) specified under ARM [24.144.411](#).
- (6) The provisions of ARM [24.101.408](#) apply.

#### Inspections:

The board will arrange to conduct on site inspections of each licensed program to verify that each program is operating within the rules established herein by the Board. At a minimum the inspections will:

1. be unannounced and occur randomly within a three year period following issuance of a license.
2. entail an examination of marketing materials, a sample of personnel files, a sample of program participant records, as well as an interview with a sample of participants in the absence of staff, and an attempt to contact a sample of current parents.
3. Medication distribution and record keeping will also be examined
4. An initial and exit interview with the on site program director

The board, at its sole discretion, may accept various nationally recognized accrediting agencies such as the Joint Commission, the Council on Accreditation, etc. as fulfilling the requirements of on site inspection. The board may also subcontract the on site inspection process.

#### Inspections:

Action deferred until such time that the research criteria and equivalence of other bodies can be completed.

Complaints:

24.\_\_\_\_.\_\_\_\_ COMPLAINT PROCEDURE

(1) A person, government or private entity may submit a written complaint to the board charging a licensee or license applicant with a violation of board statute or rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing, and shall be filed on the proper complaint form prescribed by the board.

(3) If the complaint is made by the parent(s) or legal guardian of a youth who is/was enrolled in an alternative adolescent youth program under the jurisdiction of this board, the parent(s) or legal guardian shall sign that portion of the complaint form that is a release of the youth's program records, including medical records.

(4) The board will not accept anonymous complaints.

(5) Upon receipt of the written complaint form, the board office shall log in the complaint and assign it a complaint number. The complaint shall then be sent to the licensee complained about for a written response, said licensee being required to respond in writing to the complaint within 20 days. Failure to respond will result in acceptance of the complaint as stated. Upon receipt of the licensee's written response, both complaint and response shall be considered by the screening panel of the board for appropriate action including dismissal, investigation or a finding of reasonable cause of violation of a statute or rule. The board office shall notify both complainant and licensee of the determination made by the screening panel.

(6) If a reasonable cause violation determination is made by the screening panel, the Montana Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

24.\_\_\_\_.\_\_\_\_ SCREENING PANEL:

(1) The screening panel shall consist of three board members: two program representatives and one public member.

(2) The presiding chair of the board shall appoint or replace screening panel members as necessary.

(3) The screening panel shall not consider anonymous complaints

24.\_\_\_\_.\_\_\_\_ Unprofessional Conduct:

**QUESTION FOR BOARD MEMBERS – IN ADDITION TO THE OFFENSES LISTED IN 37-1-31, MCA, WHAT OTHER OFFENSES DO YOU CONSIDER NEEDING TO BE TREATED AS A BASIS FOR DISCIPLINARY ACTION AGAINST THE PROGRAM / OR PROGRAM'S LICENSE?**

Section 37-1-316 reads: **Unprofessional conduct.** The following is unprofessional conduct for a licensee or license applicant governed by this chapter:

(1) conviction, including conviction following a plea of nolo contendere, of a crime

relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied.

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) addiction to or dependency on a habit-forming drug or controlled substance as defined in Title 50, chapter 32, as a result of illegal use of the drug or controlled substance;

(11) use of a habit-forming drug or controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally;

(12) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(13) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(14) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(15) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(16) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(17) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.

Motion: Ms. Alexine moved to adopt the complaint procedure and the screening panel sections excluding the acceptance of anonymous complaints and include a non-retaliation clause.

Second: Ms. Brooker

Discussion: None.

Vote: Unanimous.

Motion carried.

Note we need a section on actions of adjudication panel: specifying the scope of sanctions including a notion of aiming to rectify problems..... a period to correct situations, and then a notion of progressive discipline.

We should also indicate what sort of record of actions will be kept and who it is available to: e.g. complaints should not be recorded if unfounded, record should only include substantiated complaints in which the program was sanctioned for violation of a board rule, or has been found at fault by investigation of another state or federal agency with jurisdiction, or has been found guilty of negligence, or fault through adjudication

#### Subchapter 5: Core Rules

##### Purpose:

Core Rules are the required minimum standards for all Private Alternative Adolescent Residential and Outdoor Programs. Where there is duplication of review by another oversight agency, the Department shall accept that documentation as proof of compliance.

Beth Brenneman:

##### Program Administration:

Each program shall have the following:

1. A plan of operation described in an information packet or similar publication for public distribution shall contain items such as:
  - a. The description of the program and facility



- b. A description of the mission, goals and objectives of the programs participants
  - c. A description of the services provided
  - d. A description of the population served by the programs including the maximum number of program participants to be served and gender of program participants.
2. A written contract between the program and the legally responsible persons shall be completed, signed by all legally responsible persons, and kept in the youth's records with copies provided to those involved in the contract It shall include:
- a. Description of the program
  - b. Expectations for youth and family participation and a description of program policy regarding communication privilege and restrictions.
  - c. Services to be provided
  - d. Cost of services
  - e. Refund policy
3. Marketing Practices:
- a) All programs shall represent facts accurately and truthfully in all marketing materials.
  - b) They will disclose fully all fees and describe services provided.
  - c) Programs will disclose any potential conflict of interest such as a financial relationship with a referring individual or organization.

#### Rights and Responsibilities of Youth:

##### 1. The program shall have policies and procedures regarding rights and responsibilities of program participants including the right to:

a. receive care and services, including educational services within the program's capability, mission, and applicable laws and regulations;

b. be free from discrimination

c. a safe environment with a respect of human dignity;

d. the protection of the privacy of information and records regarding each youth and the youth's family;

e. communication privileges within the limitations of the program policy, excepting that at all times program participants will be allowed unrestricted access to contact the Montana abuse reporting hotline to report allegations of abuse;

f. be aware of the limitations that are necessary for the program to maintain a contraband free environment, including a description of the types of searches that are allowed in the program, the circumstances

under which each type of search will be allowed, including the required training that staff must complete to be authorized to conduct such searches;

g. be free from corporal punishment, or the infliction of

physical pain as a disciplinary measure; and

**h. submit complaints and grieves alleged violations of these rules. This shall include a prohibition on retaliation against a youth for submitting such a complaint.**

2. The program/school will have a written Student Handbook or Statement of Program Participant Rights and Responsibilities a copy of which will be provided to both the youth and the youth's parent(s) and/or guardian(s) at the time the youth is enrolled in the program. If requested, the youth's parent(s) and/or guardian(s) will be given an opportunity to read the Handbook prior to completing enrollment.

3. Procedures for student/participant grievance and complaint will be clearly outlined along with a statement guaranteeing freedom from retaliation for making complaints.

#### Required Personnel Screening:

1. Background Check: The program shall submit a list of all program personnel for whom a background check has been completed. At a minimum, background checks must be completed for the program manager and

(?) The background investigation shall, at a minimum, consist of a set of fingerprints as required for a fingerprint check by the Montana Department of Justice and the Federal Bureau of Investigation.

#### Physical Environment:

A program shall comply with all applicable federal and state regulations, laws, and codes.

#### Fire Codes

a. Specific attention is directed to programs complying with Montana building and fire codes. The program is responsible for having the necessary documentation of annual compliance with these codes and/or inspection requirements.

b. In the event that any building or fire code violations are found during a building code or fire code inspection of the program's premises and structures intended for use by the program's enrolled youth, the program shall:

(1) Within 5 calendar days of the date the inspection is completed and the program is provided with a report indicating a violation, the program shall deliver a copy of the report to the PAARP Board's administrative office.

(2) Within 5 calendar days of the date the program has remedied the noted violation and has been re-inspected and received a satisfactory inspection

report, the program shall deliver a copy of the report to the PAARP Board's administrative office.

(3) Failure to comply with this provision or failure to remedy fire code violations within the time frame required by local or state fire code inspectors is a basis for the program being subjected to disciplinary action.

Personnel Administration:

1. The program shall have written policies and procedures to include the following:

- a. Employee grievances procedures
- b. Lines of authority
- c. Orientation and on-going training
- d. Performance appraisals
- e. Rules of conduct
- f. Sexual and personal harassment prohibitions
- g. Duties and responsibilities of employees.

2. The program shall have a personnel file for each employee

4. The program shall have policies and procedures describing required minimum initial and ongoing staff training. The program shall require that staff members complete at least the minimum training required.

5. Direct care staff initial training shall consist of the following minimum requirements:

- (a) the program's policy, procedures, organization and services;
- (b) mandatory child abuse reporting laws;
- (c) confidentiality;
- (d) medical protocols and emergency procedures;
- (e) suicide prevention;
- (f) documentation; and
- (g) de-escalation of crisis situations and passive physical restraint techniques to ensure the protection and safety of the youth and staff.

6. A program which uses volunteers, substitutes, or student interns shall have written policy covering direct supervision by program staff.

7. Trainings shall be documented and training records maintained.

8. A list of all staff

Record Keeping: The program shall have a written policy regarding youth records. Staff and youth files and records shall be maintained in accordance with state and federal law.

Admissions:

The program shall have written admissions policies, including policies on suicide screening. The admission policy will require a formal written application to the

program in which the person or persons legally responsible for placement of a youth provides at least the following information:

- a. Pertinent physical and mental health history
- b. Current allergies
- c. Current medical conditions and medications
- d. Relevant history of medications that have been prescribed, but discontinued
- e. Relevant psycho-social history

Prior to or at admission, the program will ensure that the parent or guardian contracting with the program to provide services has legal authority to make decisions for the youth. In emergency situations, the program shall make that determination as soon after admission as possible, but in no case, may that determination occur more than 5 business days from the date of admission.

#### Treatment Planning and Delivery of Services:

1. Each program shall have policies which address services provided.
2. The program shall have policies which clearly define the minimum levels of supervision of youth during each day's activities.
3. The program shall have written policies to protect the privacy of participants in accordance with laws pertaining to confidentiality.

#### Incidents, Crisis Intervention, and Emergency Plans and Safety

1. The program shall have a written plan of action and training for disasters, casualties, and evacuation.
2. The program shall have a policy in which all staff acknowledges reading Montana laws regarding reporting of child abuse and neglect as required in MCA 41-3-201.
3. Incidents of abuse or neglect must be reported to the appropriate state agency as required by state law.
4. The program shall have written procedures, including parent guardian notification, for handling emergency situations such as suicide threat or attempt, abuse, assault, and runaway.
5. If an incident involves death, the program shall notify the legally responsible parent or guardian, any applicable agency and the Board.
6. The program shall have a written plan which personnel follow in medical emergencies and when arranging for medical care.
7. The program shall have an adequately supplied first aid kit in the facility and a direct care staff certified in first aid and CPR present.
8. The program shall have a telephone or 2-way radio available for emergencies.
9. The program shall have policies and training on suicide prevention as well as prevention of injuries and illness, and casualties.
10. The program shall have a policy for essential equipment maintenance and repair.

### Transfer and Discharge:

The program shall have written discharge and transfer policy and procedures.

### Behavioral Management:

1. The program shall employ the least restrictive method to assure the safety of all the parties concerned (i.e. the youth, other program participants, and staff).
2. The program shall have a written behavioral management policy and procedures to include the following:
  - a. Definition of appropriate and inappropriate behaviors of youth
  - b. Acceptable and unacceptable staff responses to inappropriate behaviors
  - c. Acceptable consequences to inappropriate behaviors
3. This policy shall be provided to all staff and staff shall receive training relative to behavior management at least annually.
4. The program shall prohibit the following:
  - a. excessive physical labor with no purpose other than for punishment:
  - b. denying necessary food, clothing, bedding, rest, toilet use or bathing facilities as punishment:
  - c. Verbal abuse, ridicule, humiliation, profanity, threats or other forms of degradation directed at a child or a child's family:
  - d. Forcing a youth to take an uncomfortable position for an extended period of time, which is anticipated to cause pain, for no purpose other than for punishment ;)
  - e. denial of visits or communication with the youth's parent(s) or guardian(s) except as specified in the program's written policy, design and planned activities, the youth's service plan or court order;
  - f. locked confinement;
  - g. the administering of medication for disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services;
  - h. the administering of discipline of a youth by another youth without staff supervision;
  - i. the intentional or malicious infliction of physical or mental suffering including pain:
  - j. the use of pain to force compliance.
5. Programs shall only allow passive physical restraint when required in an emergency situation in which there is an imminent threat to life or physical safety of the youth, staff, or others. Passive physical restraint shall not be associated with punishment in any way. Only staff trained in industry accepted de-escalation techniques and passive physical restraint, such as CPI and MANDT may restrain youth.
6. A program may not employ seclusion. Seclusion is "the placement of a resident alone in a locked room for non-therapeutic purposes."
7. Programs that use time out or short-term intervention for behavior modification or for therapeutic purposes will have written policies and procedures that have been provided to the youth ~~clients~~ and legally responsible parties.

8. The program shall have written procedures for handling emergency situations such as suicide threat or attempt, abuse, assault, and runaway.

Chemical Dependency Treatment: Any program that has as a part of its marketing, advertising, information packet or other similar document reference to providing primary, inpatient chemical dependency treatment must ensure that such treatment program is provided by an public or private treatment chemical treatment facility licensed by the Montana Department of Health and Human Services under Title 53, Chapter 24, of the Montana Codes Annotated (MCA).

Medical Services:

The program will have written policy and procedures for provision of routine and emergent medical services, including mental health services

Medications:

The program shall have written policy and procedures regarding medication dispensing and control according to state and federal regulations.

Such policies will include the requirement that parents or legal guardians will be notified within 24 hours of any changes in medication that is prescribed or distributed by program staff.

The program is also required to keep a log of missed or refused dosages of prescribed medications distributed by program staff. Such log will be made available upon request to state and federal inspectors and to a parent or legal guardian.

Infectious Diseases:

The program shall have written policies and procedures designed to prevent or control infectious and communicable diseases in accordance with accepted standards.

Financial Requirements:

Before accepting any payment, processing any application, or entering any contract to provide client services, the program shall provide written disclosure of all fees and expenses a client may incur, and identify which fees may be refundable.

Physical Environment:

A program shall comply with all applicable federal and state regulations, laws, and codes.

Food services:

The program shall provide food adequate to the nutritional needs of participants and sanitary conditions and take reasonable steps to provide safe and clean drinking water.

### Clothing:

The program shall have written policy and procedures concerning the appropriate apparel that a client should wear.

### Transportation:

1. The program shall have a written policy and procedures for transporting youth.
2. In each program or staff vehicle used to transport youth, there shall be emergency information including: the name, address, and phone number of the program and an emergency phone number.

## Subchapter 6: Outdoor Programs

### Administration

1. In addition to all of the following rules, Outdoor Programs must comply with Core Standards.
2. A list of all current students must be maintained.

### DEFINITIONS FOR OUTDOOR PROGRAMS

1. "Direct care staff" means program personnel who directly participate in the care, supervision and guidance of youth in an outdoor behavioral program, including senior field staff and field staff.
2. "Expedition" means an excursion undertaken for specific therapeutic or educational purposes that takes the youth away from the field office.
3. "Expedition camp" means a nonpermanent campsite. Youth and staff may move from one expedition camp to another when on expedition.
4. "Field office" means the office where coordination of expedition operations takes place.
5. "High adventure activity" means an outdoor activity provided to youth for the purposes of behavior management, outdoor education or treatment and which requires special safety precautions in accordance with industry risk management standards.
6. "Low impact camping" means wilderness and land use ethics designed to minimize the impact of visitors to back country areas.
7. "Outdoor program" means a program in which the majority of time, including overnight, is spent outdoors.
8. "Solo experience" means separation of a youth from the group as part of the outdoor therapeutic process exceeding the length of 8 hours.
9. "Wilderness first responder" means a certified first responder

### STAFF REQUIREMENTS

2. The staff of an outdoor program must include an individual responsible for oversight of field operations – in these rules that individual will be referred to as field director
3. The field director shall be primarily responsible for:
  - (a) the quality of field activities;

- (b) coordinating field operations;
- (c) supervising direct care staff
- (d) ensuring compliance with applicable licensing rules in the field
- (e) ensuring that staff members are familiar with all applicable field program policies and procedures.
- (f) the field director may serve as direct care staff
- 4. The field director shall meet, at a minimum, the following qualifications:
  - (a) a bachelors degree or one year outdoor youth program field experience;
  - (b) hold a wilderness first aid or wilderness first responder certification
- 5. If qualified, the administrator may serve as field director.
- 6. Field staff teams responsible for direct care must
  - a. have at least one team member certified as a Wilderness First Responder or in Wilderness First Aid
  - b. other team members must be currently certified in first aid and CPR

#### STAFF TRAINING

- 1. A program shall have written policies, procedures and training curriculum regarding minimum requirements for initial and ongoing training.
- 2. Initial staff training shall consist of the following minimum requirements:
  - (a) the program's policy, procedures, organization and services;
  - (b) mandatory child abuse reporting laws;
  - (c) low impact camping;
  - (d) confidentiality
  - (e) medical protocols and emergency procedures
  - (f) suicide prevention;
  - (g) documentation
  - (h) de-escalation of crisis situations and passive physical restraint techniques to ensure the protection and safety of the youth and staff.
  - (h) avoiding potential hazards of the expedition areas
  - (i) emergency evacuation procedures

#### PROGRAM PARTICIPANT ADMISSION REQUIREMENTS

- 1. Outdoor programs must have admissions policies and procedures which include the age range of program participants, requirement the participant have a physical examination by a licensed medical provider and current health history which includes notation of limitations and prescription medications.
- 2. Medical release forms for each participant will be kept by field staff team providing direct care to participants.

#### YOUTH STAFF RATIOS

The program shall have policies which establish direct care staff to youth ratios which meet program participant needs for health and safety. The maximum youth to direct care staff ratio will not exceed 20 youths to 1 direct care staff.



### PHYSICAL ENVIRONMENT

1. Program must adhere to requirements of forest service, park service, state lands, BLM, or landowner for use of land.
2. Health and safety policies must be adequate to meet the requirements of participants living in an outdoor setting for an extended period of time.
3. Sleeping areas must be set-up in accordance with program policy to provide for safety and adequate supervision of participants in an outdoor setting

### TOOLS AND POTENTIALLY HAZARDOUS MATERIALS

A program shall have and follow written policy and procedures on management of tools and other sharp edged implements and any potentially hazardous material.

### HYGIENE

1. The program shall provide methods available in an outdoor setting for students to wash hands and face, brush teeth, and bathe.
2. Toileting methods must provide for privacy and be compatible with low-impact camping.

### WATER, FOOD AND NUTRITION

The program must take reasonable steps to provide safe drinking water.

### MEDICAL and MEDICATION MANAGEMENT, STORAGE, AND ADMINISTRATION

1. At least one member of a field staff team must be trained in the management and administration of medications in an outdoor setting.
2. Each group of staff and students must have a medical kit that will meet the need for wilderness first aid. First aid medical kits shall include sufficient supplies for the activity, location and environment and shall be available during all field activities.

### EMERGENCY AND EVACUATION PLANS

1. A program shall have and follow a written emergency plan which provides specific procedures for disasters, evacuations, medical emergencies, missing youth, and other serious incidents identified by the program.
2. A program must have an established form of communication for emergency situations.

### SOLO EXPERIENCE

1. If a program uses a solo experience as part of the therapeutic or educational process during expeditions, the program shall have policies and procedures for the utilization of the solo experience. Policies and procedures must address:
  - (a) purpose of solo experience
  - (b) assessment of participant readiness for the experience
  - (c) risk management procedures

### EDUCATION:

Programs which operate during the academic year and in which participants are enrolled more than 6 weeks must provide an educational component.

### OUTDOOR BEHAVIORAL PROGRAM: HIGH ADVENTURE GENERAL REQUIREMENTS

1. High adventure activities are those that may require specific certification and/or equipment or training and may include the following:
  - (a) target sports;
  - (b) aquatics;
  - (c) adventure challenge courses;
  - (d) climbing and rappelling;
  - (e) spelunking;
  - (f) swimming;
  - (g) white water activities;
  - (h) use of horses or other animals for riding or packing;
  - (i) skiing;
  - (j) trampoline
2. For the high adventure activities identified in (1), the program shall adopt written policies and procedures that address minimum training, experience and qualifications for leaders and staff and must adhere to accepted industry risk management procedures.

### Subchapter 7: Residential Programs

Purpose. Private alternative adolescent residential programs offer room and board and provide for or arrange for the provision of specialized treatment, rehabilitation, ~~or~~ habilitation, or educational services for adolescents with emotional, psychological, developmental, or behavioral issues. In residential treatment programs, program participants are assisted in acquiring the social and behavioral skills necessary for living independently in the community.

Definitions: For the purpose of this chapter the following definitions apply: "Private alternative adolescent residential Program" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider.

#### Administration.

1. In addition to the following rules, all Residential Treatment Programs shall comply with Core Standards.
2. A current list of enrollment of all registered program participants shall be maintained at all times.

#### Staffing:

1. The program shall have a manager who is responsible for the day to day resident supervision and operation of the facility. The responsibilities of the manager shall be clearly defined. Whenever the manager is absent there shall be a substitute available.

2. Programs which employ, contract, or consult with professional licensed or certified staff shall have in policy and procedure under what circumstances the professional staff are to be engaged and must have a copy of the professional staff license or certification on file.
3. If no medical licensed employed, contract, or consultant staff is used, the program must have policies and procedures in place to secure medical care when needed.
4. The program must have policies and procedures to secure mental health care as needed.
5. The program shall have policies which establish direct care staff to youth ratios which meet program participant needs for health and safety in the various activities and settings available in the program. .

Food Service:

1. Kitchens shall have clean, safe, and operational equipment for the preparation, storage, serving, and clean up of all meals.
2. The program shall have safety and health policies for preparation of food by staff and program participants.

**Advertising and Disclosure.**

Marketing practices, full disclosure of the marketing practices to the parents.  
Representation of facts truthfully to families and students, and fully disclose all costs and fees for services including those involved in placement.

Ms. Manning will draft her ideas about advertising and disclosure and forward them to Mr. McCabe. Mr. McCabe will incorporate those ideas into the rule format and present at the next meeting.

This needs to be spelled out more clearly and should prohibit undisclosed conflicts such as payment for referrals

24.181.401 REGISTRATION FEE SCHEDULE (1) All programs must register prior to being licensed.

(2) The registration fee covers the year or portion of the year [July 1 of one year and June 30<sup>th</sup> of the next year], in which the program is registered.

(3) Registration fees are calculated according to the program's average daily census:

(a) 0-10 participants \$750

(b) 11-50 participants \$3,800

(c) 51-100 participants \$7,600

(d) 101 and more participants \$11,000

(3) All existing programs must be registered within 30 days of the adoption of these rules.

(4) Additional standardized fees are specified in ARM 24.101.403.

(5) All fees provided for in this rule are nonrefundable and are not prorated for portions of the registration period.

tion: Mr. Clark moved to accept Subchapter 4: Licensing, Renewals and Fees, as presented.

cond: Ms. Brooker

cussion: None.

ae: Unanimous.

tion carried.

**Disqualifiers revised by M Manning**  
**06-24-08 PAARP BD MEETING**  
**DRAFT REVISION OF DPPHS REGULATIONS FOR**  
**"DISQUALIFIERS" FROM CARE OF "CHILDREN"**

PROTECTION OF CHILDREN FROM A PERSON CHARGED WITH A CRIME INVOLVING CHILDREN, VIOLENCE, OR DRUGS (1) A caregiver, volunteer, support staff person, other adult residing in or on the premises of a residential alternative adolescent residential facility, or other person who regularly or frequently stays in the facility, who is convicted of a crime involving children, physical or sexual violence against any person, or any felony drug related offense, may not provide care or be present in the facility.

(2) A caregiver, volunteer, support staff person, or other adult who is regularly in the vicinity of a base camp or staging area where outdoor program participants may be housed or staying overnight as part of an outdoor program, who is convicted of a crime involving children, physical or sexual violence against any person, or any felony drug related offense, may not provide care or be present in the base camp.

ALTERNATIVE ADOLESCENT RESIDENTIAL PROGRAM FACILITY OR OUTDOOR PROGRAM: NO THREAT FROM PERSONS IN CONTACT WITH CHILDREN (1) No staff member, aide, volunteer, or other person having direct contact with the children in the residential program facility or outdoor program shall pose any threat to the health, safety, and well being of the children in care. (History: 52-2-704, MCA; IMP, 52-2-704, 52-2-723, 52-2-731, MCA; NEW, 2006 MAR p. 1424, Eff. 6/2/06.)

ALTERNATIVE ADOLESCENT RESIDENTIAL FACILITIES OR OUTDOOR PROGRAMS: REAPPLICATION AFTER SUSPENSION OF REVOCATION (1) An applicant who has had a previous alternative adolescent residential or outdoor program application denied or who has had an alternative adolescent residential or outdoor program license or registration revoked or suspended may not reapply for licensure or registration within one year of the denial or revocation.

(2) If the suspension or revocation is contested and upheld after a hearing, the reapplication may not be made until one year after the date of the decision of the hearing officer. (History: 52-2-704, MCA; IMP, 52-2-704, 52-2-723, 52-2-731, MCA; NEW, 2006 MAR p. 1424, Eff. 6/2/06.)

NEGATIVE LICENSING ACTION: ALTERNATIVE ADOLESCENT RESIDENTIAL PROGRAM FACILITY OR OUTDOOR PROGRAM : (1) After written notice to the applicant, licensee, or registrant, the Board may deny, suspend, restrict, revoke, or reduce to a provisional or probationary status a registration certificate or license upon finding that:

(a) the applicant, licensee, or registrant, or caregiver, volunteer, support staff person has a conviction for a serious crime, such as but not limited to homicide, sexual

**NEGATIVE LICENSING ACTION: ALTERNATIVE ADOLESCENT RESIDENTIAL PROGRAM FACILITY OR OUTDOOR PROGRAM :** (1) After written notice to the applicant, licensee, or registrant, the Board may deny, suspend, restrict, revoke, or reduce to a provisional or probationary status a registration certificate or license upon finding that:

(a) the applicant, licensee, or registrant, or caregiver, volunteer, support staff person has a conviction for a serious crime, such as but not limited to homicide, sexual

intercourse without consent, sexual assault, aggravated assault, assault on a minor, assault on an officer, assault with a weapon, kidnapping, aggravated kidnapping, prostitution, robbery, or burglary;

(b) the applicant, licensee, or registrant, or caregiver, volunteer, support staff person has a conviction for a crime pertaining to children or families, including but not limited to child abuse or neglect, incest, child sexual abuse, ritual abuse of a minor, felony partner or family member assault, child pornography, child prostitution, internet crimes involving children, felony endangering the welfare of a child, or felony unlawful transactions with children.

(c) the applicant, licensee, or registrant, or caregiver, volunteer, support staff person has within the previous five years had a felony conviction for a drug related offense, including but not limited to use, distribution, or possession of controlled substances, criminal possession of precursors to dangerous drugs, criminal manufacture of dangerous drugs, criminal possession of imitation dangerous drugs with the purpose to distribute, or criminal possession, manufacture of delivery of drug paraphernalia

(d) the applicant, licensee, registrant, or caregiver, volunteer, support staff person has been convicted of abuse, sexual abuse, neglect, or exploitation of an elderly person or a person with a developmental disability.

(2) The Board, after written notice to the applicant, licensee, or registrant may deny, suspend, or revoke a registration or license or may restrict or reduce to a provisional, or probationary status a registration or license upon a finding that:

(a) the applicant, licensee, registrant, caregiver, volunteer, or support staff person has a conviction for misdemeanor partner/family member assault, misdemeanor endangering the welfare of a child, misdemeanor unlawful transaction with children, or a crime involving an abuse of the public trust;

(b) the alternative adolescent residential program is not in compliance with fire safety standards imposed by these rules, or by the state fire marshal or other authority having jurisdiction;

(c) the residential alternative adolescent program or outdoor program has not met or is no longer meeting the requirements for licensure or registration set forth in these rules;

(d) the residential alternative adolescent program or outdoor program has made any intentional material misrepresentations to the Board, including an omission of information the provider is obligated to disclose to the Board, regarding any aspect of the program or its operations;

(e) upon referral of suspected child abuse or neglect regarding an operating alternative adolescent residential or outdoor program, the initial investigation by the Board, DPHHS and appropriate law enforcement authorities determines that there is probable cause to believe that a child in the facility may be in danger of harm;

(f) the alternative adolescent residential program or outdoor program or any staff member has failed to report an incident of suspected abuse or neglect of any child to the department as required by 41-3-201.

(g) the results of a psychological or medical examination provided reasonable grounds for the Board to believe that the alternative adolescent residential or outdoor program, any staff member, or volunteer is not an appropriate caretaker for a child;

(h) the alternative adolescent residential or outdoor program has failed to protect the health, welfare, or safety of a child or presents a reasonably foreseeable serious hazard to the health, safety, or welfare of a child;

(3) Suspension, revocation, restriction or reduction to a provisional or probationary status may be immediate upon a determination by the Board that public health, safety, or welfare imperatively requires emergency action. Such a determination may be based on findings including, but not limited to the following situations:

(a) upon referral of suspected child abuse or neglect regarding a residential alternative adolescent residential or outdoor program facility, the initial investigation by the Board, DPHHS and appropriate law enforcement authorities reveals that there are reasonable grounds to believe that a child in the facility may be in danger of harm;

(b) the Board requests and is denied access to the licensed or registered facility;

(c) the alternative adolescent residential program or outdoor program has intentionally made material misrepresentations or omissions to the Board, regarding information requested on the application form or necessary for registration or licensing purposes.

(4) If a registrant or licensee is placed on a probationary or other provisional status, the Board shall require that the registrant or licensee notify all parents and guardians of all children attending the facility of the status of the registration or license, the basis for the reduced status and the time period for which the license is reduced. The registrant or licensed alternative adolescent residential or outdoor program shall be required to, within ten working days from the date program is placed on probationary or other provisional status, submit to the Board proof of such notification. Failure to provide timely such proof to the Board of this parent/guardian notification is a basis for additional action being taken by the Board against the program's registration and/or license. The Board shall also post such notice on its website.

(5) Any hearing under this section is a contested hearing.